

Subject: Re: Misconduct in Research

Date: Thursday, November 17, 2016 at 8:19:15 AM Mountain Standard Time

From: Dean Saitta

To: Charles Reichardt

CC: Kate Willink

Chip, Kate—

There are no page numbers on the current policy. The biggest issues I've noted are the following. There might be others I discover when I go through the policy with a fine-toothed comb. I have not looked at the PHS policy that Chip indicates constrains what the DU policy will look like. My comments are essentially based on what I take to be fundamental fairness.

-The policy should stipulate that a very clearly articulated, specific charge of misconduct be shared with the respondent, along with who, specifically, is making the allegation.

-The policy should have greater clarity around how Inquiry and Investigative committees are formed. I believe that these committees should be composed of senior faculty. Not just SPARC members, and ABSOLUTELY no administrators. Associate deans are administrators. Three-fifths of Sewalk's investigative committee were Associate Deans. Several policies from other institutions that I researched stipulate that the committee members should all be faculty members, and some policies allow a role for the Faculty Senate in the appointments. The policy should also say something about whether Inquiry committee members can also be Investigative Committee members. Personally, I think that the personnel of these committees should not overlap.

-The policy should clarify how Inquiry and Investigative committee chairs are selected. I believe that this should be left up to the committee members themselves.

-The policy should stipulate that the respondent has the right to reject an appointed committee member who might have a conflict of interest.

-I believe that a 120-day timeline for completing the investigation is way too long. Something more appropriate would be 60 days, tops.

-All lawyers should be kept out of any and all proceedings involving the faculty's deliberation of the case. The current policy's stipulation that SPARC will "work in

conjunction with, and secure the support of, University of Denver General Counsel” is way beyond the pale. This sends a message that the respondent is essentially doomed, and escalates things to a point where the respondent has no choice but to secure counsel themselves before any inquiry/investigation takes place. In Sewalk’s case I sat in a room with the committee members seated at one end of a long table, Sewalk seated at the other end, and the two opposing lawyers alongside. I was not allowed to sit next to Sewalk as a sign of support for him. The investigative committee chair did almost all of the interrogation. It was Kafkaesque.

-The policy should stipulate that the respondent is entitled to have an advocate present at any investigative hearings where the respondent is present. The role of this advocate/observer should be clarified in the policy.

-The policy should make clear that the Final Report of the investigative committee will be sent to the respondent as well as the administrators mentioned.

-The policy should clarify that the respondent has the right to submit a written response to the final report of investigative findings, and sufficient time to review all materials/appendices associated with the final report. This includes the interview notes of named witnesses who testified for and against the respondent.

-The policy should stipulate that the respondent has the right to appeal the findings of the investigative committee. It should stipulate that the university shall not, in any case and under any circumstances, impose any sanctions until the respondent has exhausted the appeals process available to them. The policy should also clarify WHO decides on sanctions once an appeal has been exhausted.

I may have more comments later, but this is the big stuff.

Dean

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From: Charles Reichardt <Charles.Reichardt@du.edu>

Date: Wednesday, November 16, 2016 at 10:20 AM

To: Dean Saitta <Dean.Saitta@du.edu>

Subject: Misconduct in Research

Dean,

I don't know how much you want to get involved, but the Senate is looking into DU's policy on misconduct in research. I would very much appreciate any thoughts you have especially on changes you think should be made in the DU policy. In case it would be helpful, I've attached a copy of DU's policy and the PHS policy that is cited in the DU policy. I might note that the DU policy looks to be a good bit restricted by the PHS policy.

Thanks for any insights you wish to offer.

Chip Reichardt